



July 1, 1999

Lieutenant Bill Kral
Amarillo Police Department
200 S E 3rd
Amarillo Texas 79101-1515]

OR99-1838

Dear Lieutenant Kral:

You have asked whether certain information is subject to required public disclosure under the Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 125362.

The City of Amarillo Police Department (the "department") received a request for "any and all" information for two specified individuals and a particular location during a specified time period. In response to the request, you submit to this office for review the information at issue. You assert that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We first address your arguments under section 552.101 of the Government Code. As for your assertion that the request for "any and all" information about specified individuals "is tantamount to building criminal history on individuals," we agree with your assessment. Generally, a request for all records of a named individual is a request for criminal history information ("CHRI"), which is confidential pursuant to the individual right to privacy. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). However, in this instance, since the subjects of the request were the complainants or witnesses in the submitted offense reports, we conclude that a right of privacy is not implicated. *See Gov't Code § 552.352.*

As for your claim under section 552.101 in conjunction with 58.007 the Family Code, we note that since offense report 93-62548 is about incidents that occurred in 1993, the appropriate provision to have raised was section 51.14(d) of the Family Code, which prior to its repeal by the Seventy-fourth Legislature, provided for the confidentiality of juvenile law enforcement records. We note that the Seventy-fourth Legislature repealed section 51.14 of the Family Code and replaced it with section 58.007 of the Family Code.

The Seventy-fifth Legislature, however, amended section 58.007 once again to make juvenile law enforcement records confidential, effective September 1, 1997. Act of June 2, 1997, 75th Leg., R.S., ch. 1086, 1997 Tex. Sess. Law Serv. 4179, 4187 (Vernon). However, based on a review of the submitted records, it does not appear that section 51.14 is applicable to the submitted records.

We next consider your assertion that the requested report is excepted from required public disclosure based on section 552.108(a)(2) of the Government Code. Section 552.108, the “law enforcement exception,” provides in relevant part as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or]

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication;

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation;

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

....

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov’t Code § 552.108. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication.

Although you state that "the case investigation has been concluded; it has not been adjudicated and therefore has not resulted in a conviction or deferred adjudication against any person," we note that offense report number 98-88606 resulted in "the defendant receiv[ing] a \$400 fine for class B telephone harassment." Accordingly, we conclude that, except for offense report number 98-88606, most of the remaining information "deals with the detection, investigation, or prosecution of crime . . . in relation to an investigation that *did* not result in conviction or deferred adjudication." Therefore, except for offense report number 98-88606 and the front page information from the remaining reports, the department may withhold the submitted incident reports from disclosure under section 552.108(a)(2).

However, as you are aware, certain basic information normally found on the front page of an offense report, including a detailed description of the offense, is generally considered public. *See* Gov't Code § 552.108(c); *see generally Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 187 (Tex. Civ. App--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Therefore, we conclude that, except for basic information subject to release, section 552.108(a)(2) excepts the remaining information from public disclosure. Although section 552.108 authorizes you to withhold the remaining information from public disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely

A handwritten signature in black ink that reads "Sam Haddad". The signature is written in a cursive, flowing style. The first letter "S" is large and loops around the first part of the name. The last name "Haddad" is written in a similar cursive style.

Sam Haddad
Assistant Attorney General
Open Records Division

SH/nc

Ref.: ID# 125362

Encl.: Submitted documents

cc: Mr. Karl Cooper
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(w/o enclosures)